MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2021/2022

UVT 2612 – ENVIRONMENTAL LAW

(All Sections / Groups)

17 AUGUST 2022
Reading Time : 9:00 a.m. – 9:15 a.m.
(15 Minutes)
Answering Time: 9:15 a.m. – 12:15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages with 4 Questions only.

3. **Attempt either Question 1A OR Question 1B. Questions 2 to 4 are compulsory.** All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue:
   i. Environmental Quality Act 1974
   ii. International Trade in Endangered Species Act 2008
   iii. Local Government Act 1976
   iv. Petroleum and Electricity (Control & Supplies) Act 1974
   v. Wildlife Conservation Act 2010

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

ATTEMPT EITHER

QUESTION 1A

The role of the legislation, amongst others, is to guide society into a higher standard of living. However, the legislation very often is behind the times and needs society to push it along.

Discuss the challenges members of society have faced when trying to improve environmental conditions in court. Your discussion must include references to relevant legal authorities and suggestions.

(Total: 25 marks)

OR

QUESTION 1B

Explain the implication and role *Kajing Tubek & Ors vs Ekran Bhd & Ors* (1996) 2 M.L.J. 388 plays on the matter of private interest litigation regarding environmental matters in Malaysia.

(Total: 25 marks)

Continued...

ATTEMPT ALL QUESTIONS

QUESTION 2

Sandra has been having a difficult time since her new neighbours moved into the bungalow next to hers. They are rude and park their cars all over the place. They like to flaunt their wealth in very obnoxious ways. They have very loud parties very frequently that can be heard in the neighbours' houses that usually last until late in the night. Sandra will not be able to sleep on such nights as the music and noises of guests' voices are clear as a bell. She can sometimes sing along to the songs her neighbours are listening to. However, this has become intolerable as she has no peace.

Sandra has also discovered that the neighbours burn their grass clippings in their lawn. Thick black smoke has begun passing her house every weekend. It has a foul smell that is rancid and nauseating. She has to leave the house at those times as it can be smelt inside her house. Recently, she discovered that her house furniture and curtains are collecting soot. Amanda's house is downwind from her neighbours'.

Sandra finds herself unable to sleep and loses focus during work. Last week, she nearly crashed into a car while driving. She also has a sore throat, started coughing and is often dizzy.

Having had enough, Sandra approached her neighbours last weekend to talk about her troubles. However, her neighbour, Siti Hidayah, was rude. She told Sandra that they had nothing to do with Sandra's health problems and that she should see a doctor or go to the hospital instead of blaming them for being a sickly person. She accused Sandra of probably making things up to defame and extort money from them as they "are important people in the country". Siti Hidayah told Sandra that she was recently made a youth icon by the government for all her achievements and that Sandra must be envious of her status and the youth events that she has at her home. She also told Sandra not to "be so clever and try to get the other neighbours against me because you are a women, and as a women, you are not a leader; go home and make your husband happy".

Sandra walked home flustered, disappointed and confused. She wondered what a youth icon was and why the government would appoint her as one as the other neighbours say that Siti Hidayah does not do anything significant. She also sighed thinking that they will likely be having another party that night.

The neighbours did have a loud and noisy party that night until 3:00 a.m., as usual. They have also become ruder and more obnoxious: speaking loudly outside their houses about being rich and important and delicious food smells now also waft downwind to Sandra's house.

Sandra has come to you with her current problem. She has the support of her other neighbours. Advise Sandra as to her legal options and how the neighbours could be liable under the relevant environmental laws in Malaysia.

(Total: 25 marks)

Continued...

QUESTION 3

Johan was recently arrested. He was stopped by the authorities on his way to his pick-up truck as he exited the Belukar Orang Sanctuary from a break in the fence.

He was carrying with him the carcass of an adult female and baby male *Neofelis Nebulosa.* The authorities questioned him aggressively as to his activities in the forest reserve. Johan then led them into the forest reserve where he had laid some tiger traps. One of them had fresh blood on it. He also led them to a cage that contained an adult *Python Brongersmai.*

Along the way, the authorities found and arrested five men who were emptying the liquid contents of ten blue plastic barrels onto the ground. They seized the barrels and the lorry the men came in.

The authorities also seized Johan's pick-up truck. They discovered the carcass of an adult female *Tragulus Kanchil* and a jar of teeth under the driver's seat. Johan told the authorities that he was just hunting for food.

The five men claimed to be doing their work as instructed by their supervisor at Banyak Akal Sdn Bhd. Investigations discover that they were indeed employees of Banyak Akal Sdn Bhd and that the contents of the barrels were industrial waste containing high levels of heavy metals including chromium and mercury.

It has been discovered that the teeth belong to no less than four *Panthera Jacksoni.*

You have been assigned with charging all the above for their respective offences. Prepare and discuss the parties' possible liabilities and defences.

(Total: 25 marks)

Continued...

QUESTION 4

Following a number of complaints from the farmers along Sungai Rakyat, Negeri Sembilan, an investigation discovered five men emptying the liquid contents of ten blue plastic barrels into the river. The men were arrested while in the act. After being questioned threateningly, they explained that they were merely doing their work as instructed by their supervisor at Banyak Akal Sdn Bhd. They also revealed that they did not know what the contents of the barrels were and that this was their twentieth time repeating the act at that location since the last ten weeks.

Farmers along Sungai Rakyat claimed that their crops have been sickly and dying in the past two months. The farmers and their families living along the river have also been presenting with various illness in the past two weeks. Recently, an old lady passed away. Her liver and nervous system had been damaged.

Following a number of complaints from fishermen near Tanjong Rakyat, Negeri Sembilan, an investigation discovered five men emptying the liquid contents of ten blue plastic barrels into the mangrove forest. The men were arrested while in the act. After being questioned threateningly, they explained that they were merely doing their work as instructed by their supervisor at Banyak Akal Sdn Bhd. They also revealed that they did not know what the contents of the barrels were and that they have been doing so twice a week for the past year.

Fishermen in the area claimed that the mangrove forest used to be teeming with life and is now dead and smells funky. They also state that their daily catch has been very poor in the past six months. Furthermore, they claim that there were a lot of dead fish washing up between six and nine months ago.

Investigations discovered that they were indeed employees of Banyak Akal Sdn Bhd and that the contents of the barrels were industrial waste containing high levels of heavy metals including chromium and mercury. When the company was investigated, it was revealed that Mr Azahidi, the owner and director of the company had instructed that the waste be disposed of in such a manner as it was cheaper, quicker and easier. The authorities arrested Mr Azahidi at his daughter's house. She was hosting a party at the time. While being arrested, his daughter, Ms Siti Hidayah, repeatedly shouted "I am a women, I am not a leader".

You have been assigned with charging all the above for their respective offences. Prepare and discuss the parties' possible liabilities and defences.

(Total: 25 marks)

End of Page